



Virginia  
Regulatory  
Town Hall

townhall.virginia.gov

## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation</b>	22VAC40-601
<b>Regulation title</b>	Food Stamp Program
<b>Action title</b>	Alter the time an application for food stamp benefits may be held pending before processing.
<b>Date this document prepared</b>	August 20, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The purpose of the proposed action is to alter the length of time an application for food stamp benefits may be held pending before processing.

Federal regulations allow states an option to deny applications after 30 days if the local department of social services is unable to process the application or to hold the application pending for an additional 30-day period. The State Board of Social Services would like to deny applications after 30 days instead of holding the application pending for an additional 30-day period before disposing of the applications.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Section 63.2-217 of the Code of Virginia grants authority to the State Board of Social Services to promulgate rules and regulations to operate assistance programs in Virginia. Section 271.4 of the Code of

Federal Regulations delegates responsibility to administer the Food Stamp Program within a state to the agency assigned responsibility for other federally funded public assistance programs.

**Need**

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

The State Board of Social Services would like to change the method of handling applications that remain unprocessed after 30 days to reduce administrative tasks encountered by local eligibility workers and to qualify for federal bonus money for meeting timely application processing standards. The amount of benefits households would receive or the number of eligible households will not be affected by changing the approach of processing applications.

Households seeking food stamp assistance must apply for benefits in the city or county where they live. Local eligibility workers normally have 30 days to process the applications. The eligibility worker will leave an application pending (or waiting) until the required information is received. Benefits are calculated from the application date so eligible households will receive a higher benefit if the application is filed early in the month. Currently, if the eligibility worker is unable to complete the processing of the application at the end of 30 days because of the applicant's failure to provide information, or to take needed actions, eligibility staff must extend the processing period by an 30 additional days. If the applicant supplies the information or takes the needed actions during the second 30-day period, benefits are prorated from the date the information is supplied. The application is denied if information is still needed after the 60<sup>th</sup> day. Approximately 30 percent of applications that are held for the extended period are processed while the majority of the pending applications are ultimately denied because of the failure of the applicant household to provide information.

The amendment would eliminate holding the application unprocessed during the second 30-day period, as the application would be denied. Eligibility workers would be required to reopen the denied application if the applicant provides the information before the 60<sup>th</sup> day. Benefits would be calculated from the date the information was provided if the household is eligible for benefits.

The amendment would not affect the health or safety of citizens.

Reprogramming the computer system would be needed to allow for the denial of applications on the 30<sup>th</sup> day, along with revising guidance documents and notices.

**Substance**

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

Revision of 22VAC40-601-50 will allow local eligibility workers to deny food stamp applications that are being held as of the 30<sup>th</sup> day if the applicant has failed to provide information or failed to take actions needed to determine eligibility for benefits. The eligibility worker must send applicants a notice that details the actions or information needed and inform the applicant of an opportunity to cancel the denial by providing the processing actions within the next 30 days. The amount of benefits received will be calculated from the date the applicant household supplies the information or takes the actions needed.

Applicants will not need to submit a new application to have the local department of social services reopen the case and consider any newly submitted information.

## Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

Federal regulations allow only two methods for processing food stamp applications if there is a delay in processing the application 30 days after the filing date. The agency may deny the application on the 30<sup>th</sup> day but reopen the case without requiring another application if the applicant household provides required information within the next 30 days; or, the state agency may send a notice on the 30<sup>th</sup> day that informs the applicant that the application is still pending and the actions needed for processing.

Since 1979, applications in Virginia have been held pending for the 30 day extended period. Continuation of this method results in the loss of potential bonus money being received by Virginia from the U.S. Department of Agriculture (USDA). Although holding an application pending for the extended 30-day period meets federal guidelines, the USDA now only measures timeliness for assigning bonus money to state agencies that deny applications on the 30<sup>th</sup> day instead of holding the applications pending for the extended period.

Changing the method also potentially reduces the work activities for local workers by denying the application on the 30<sup>th</sup> day if the applicant does not take any follow up action as no further action is needed by the workers. The extended pending method requires additional action by local workers or an automatic denial by the computer on the 60<sup>th</sup> day of processing

## Public participation

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

The State Board of Social Services is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The State Board of Social Services is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to Celestine Jackson, Division of Benefit Programs, Virginia Department of Social Services, 7 North Eighth Street, Richmond, Virginia 23219. The telephone number is (804) 726-7376 and the fax number is (804) 726-7356 The email address is [celestine.jackson@dss.virginia.gov](mailto:celestine.jackson@dss.virginia.gov) Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will not be held.

### Participatory approach

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

The Department of Social Services has sought guidance from representatives of the 30 largest local social services departments in Virginia on whether to pursue the change described through this amendment. Guidance was also sought from a subcommittee of the Benefit Programs Organization (BPRO) of Virginia, an organization open to local eligibility workers and supervisors of every locality. BPRO currently has approximately 1,000 members. The State Board of Social Services is committed to using the participatory approach in the development of the proposal.

### Family impact

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

The regulation does not strengthen or erode the nurturing relationship between parents and their children. The regulation also does not alter the rights of parents to direct the education or supervision of children. The regulation neither encourages nor discourages economic self-sufficiency or self-pride nor does it alter responsibility for oneself or family or affect marital commitment.

The regulation does not change the standards for determining which households are eligible for food stamp benefits and therefore should not alter disposable family income. The amount of benefits a household receives helps to supplement the amount of money available for food purchases.

The regulation encourages personal responsibility since the parent or head of household will be providing verifications needed for processing the application within 30 days. This timeframe allows the household to receive needed nutritional benefits for their family as expeditiously as possible.

Applicant households receive benefits that are prorated based on the date the application is filed and will receive benefits for the month of application if the applicant provides needed information within 30 days of the filing date. If the household delays submitting information or taking required actions by the 30<sup>th</sup> day, the application will be denied. However, if the information is provided after the 30<sup>th</sup> day, the action to deny the application will be rescinded and the household benefits will be calculated based on the date the information is submitted. The impact of the regulation is minimized by allowing the household an opportunity to submit information after the application has been denied without requiring another application to be filed.